

The Honorable James L. Robart

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NORTHWEST ENVIRONMENTAL ADVOCATES,
Plaintiff,

Case No. 2:19-cv-01051-JLR

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,
Defendant.

[PROPOSED] ORDER GRANTING
THE PARTIES' JOINT MOTION
FOR ENTRY OF ORDER SETTING
DEADLINES

Plaintiff Northwest Environmental Advocates (NWEA) brought this Freedom of Information Act lawsuit against defendant U.S. Environmental Protection Agency (EPA). The parties have filed a Joint Motion for Entry of Agreed Order Vacating Case Schedule and Establishing Deadlines for EPA's FOIA Responses (Doc. #10). The Court hereby GRANTS that motion. As per the parties' October 1, 2019 stipulations and agreement:

1. All existing case deadlines are vacated.
2. NWEA shall not seek relief in this case for claim six in the complaint.
3. EPA shall comply with the following deadlines and obligations:
 - a. By March 6, 2020, EPA shall complete its search for responsive records and send NWEA all non-exempt responsive records and EPA's final response to

1 NWEA's January 11, 2019 FOIA request to EPA regarding polybrominated
2 diphenyl ethers (PBDE) in Puget Sound and elsewhere (request number EPA-
3 R10-2019-002757);

4 b. For NWEA's January 11, 2019 FOIA request to EPA regarding nutrient
5 pollution in Puget Sound and elsewhere (request number EPA-R10-2019-
6 002758), EPA shall: (i) on a monthly basis, review at least 150 potentially
7 responsive records and disclose non-exempt responsive records to NWEA,
8 with the first monthly production to be on or before November 29, 2019; and
9 (ii) send NWEA all non-exempt responsive records and EPA's final response
10 to that FOIA request by March 20, 2020. The parties shall work on confirming
11 the scope of the search and shall confer about extending the deadline if
12 necessary;

13 c. By December 2, 2019, EPA shall respond in writing to the issues set forth in
14 NWEA's May 9, 2019 administrative FOIA appeal (FOIA appeal reference
15 number EPA-HQ-2019-005645) and make any additional disclosures, as
16 appropriate;

17 d. Within thirty days of the final response deadlines set forth in paragraphs 3(a)-
18 (c) herein, EPA shall send NWEA a basic written index of redactions and
19 withholdings. For redactions, EPA shall mark each redaction with the
20 correlating exemption number. NWEA will identify in writing documents that
21 have been withheld or redacted and that NWEA seeks additional information
22 about, to which EPA will respond;

23 e. For all its responses, EPA shall endeavor to retroactively provide NWEA with
24 color copies for documents identified by NWEA. For documents already
25 received, in addition to the documents already identified in NWEA's May 9,
26 2019 administrative FOIA appeal, NWEA may identify documents that it
27 would like to receive a color copy of and EPA shall endeavor to promptly
28

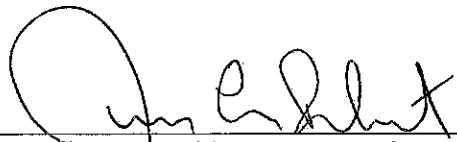
1 provide a color copy of the documents to the extent it is technologically
2 feasible to do so. EPA shall produce emails and attachments in consecutive
3 order in the productions, or otherwise provide an index or written information
4 allowing NWEA to associate produced emails with attachments. For
5 responsive attachments that are withheld in full, EPA shall also provide
6 information concerning the document identity of the parent email; and

7 f. For all the FOIA requests and responses at issue in this case, including
8 NWEA's March 27, 2019 FOIA request to EPA regarding Clean Water Act
9 section 319 funding to Oregon (request number EPA-R10-2019-004570), the
10 parties shall work in good faith to resolve any disputes and shall meet and
11 confer regarding EPA's responses, in particular if EPA encounters technical
12 difficulties or there is a dispute about any documents withheld in full or in
13 part, to attempt to resolve any disputes and reduce the issues before the Court.

14 4. The parties shall confer regarding EPA's disclosures and file a Joint Status Report
15 with the Court by May 20, 2020 that will propose a schedule to govern future
16 proceedings, should they be necessary, including proposing deadlines for
17 dispositive motions and/or a fee petition if the parties are unable to resolve any
18 remaining issues.

19 IT IS SO ORDERED.

20 Dated this 7th day of October, 2019.

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22 
23 _____
24 The Honorable James L. Robart
25 UNITED STATES DISTRICT JUDGE

26 Presented by:

27 /s/Paul Kampmeier
28 Paul Kampmeier, WSBA #31560

1 Kampmeier & Knutsen PLLC
2 811 First Avenue, Suite 468
3 Seattle, Washington 98104
4 Tel: (206) 858-6983
5 Email: paul@kampmeierknutsen.com

6 *Attorneys for Northwest Environmental Advocates*

7 BRIAN T. MORAN
8 United States Attorney

9 /s/Michelle R. Lambert

10 MICHELLE R. LAMBERT, NYS #4666657

11 Assistant United States Attorney
12 Western District of Washington
13 United States Attorney's Office
14 1201 Pacific Avenue, Suite 700
15 Tacoma, Washington 98406
16 Phone: 253-428-3824
17 Email: michelle.lambert@usdoj.gov

18 *Attorneys for Defendant U.S. EPA*